

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Richard H. French-Constant et al.

Serial No.:

Group

Filed:

Examiner:

For: DNA SEQUENCES FROM *PHOTORHABDUS*  
*LUMINESCENS*

Docket No.: 61,645B DIV1

Mail Stop PATENT APPLICATION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 CFR 1.97(C)**

Applicants submit herewith patents, publications or other information of which they are aware, which they believe may be material to the examination of this application and in respect of which there may be a duty to disclose.

The accompanying form PTO 1449 (modified) identifies patents and publications submitted herewith. Copies of the cited references are supplied herewith.

With respect to reference AA, the Examiner's attention is directed to bases 31398-35838 of SEQ ID NO: 11 (orf2), to SEQ ID NO: 14, to column 12, lines 33-49, and to Example 18. Applicants' nucleic acid, tcdB, is distinctly different from orf2 of the reference (89.9% identical), and applicants' protein, TcdB, is distinctly different from the protein encoded by orf2 (SEQ ID NO: 14 of AA)(92.9% identical).

The relevance of references BA and BB is described in the specification.

With respect to item CA, on information and belief, the presentation, of which the reference is an abstract, included information on the effect of using genes xptB1 and xptC1 with the xptA1 gene similar to the information disclosed in reference CB, i.e. that genes xptB1 and xptC1 are needed for full activity of xptA1. Reference CB is not itself prior art. Both CA and CB relate to *Xenorhabdus* toxins, not *Photorhabdus* toxins, and Applicants' nucleic acid, tcdB, is distinctly different from both xptB1 (35.9% identical) and xptC1 (44.7% identical).

Respectfully submitted,

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Date: August 26, 2003

61,645B DIV1

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date appearing below.

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*August 26, 2003*  
Date

By *Marcia R. Jansen*  
Marcia R. Jansen

## INFORMATION DISCLOSURE STATEMENT

(Use Several Sheets if necessary)

ATTY DOCKET NO.

61,645B DIV1

SERIAL NO.

APPLICANT

ffrench-Constant et al.

FILING DATE

08/26/2003

GROUP

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB- CLASS	FILING DATE IF APPROPRIATE
	AA	US 6,281,413	08/28/2001	Kramer et al	800	302	02/17/1999
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						

## FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	PUBLICATION DATE	COUNTRY	CLASS	SUB- CLASS	TRANSLATION YES   NO	
	BA	WO98/08932	05.03.1998	PCT				X
	BB	WO01/11029	15.02.2001	PCT				X
	BC							
	BD							
	BE							

## OTHER DISCLOSURES (Including Author, Title, Date, Pertinent Pages, Place of Publication, Etc.)

	CA	Morgan, J. Alun et al., "Cloning and expression of insecticidal toxin genes from <i>Xenorhabdus</i> species", SIP 1999 Program & Abstracts, XXXII Meeting, University of California at Irvine, August 22-27, 1999					
	CB	Morgan, J. Alun W., et al. "Sequence Analysis of Insecticidal Genes from <i>Xenorhabdus</i> nematophilus PMF 1296, Applied and Environmental Microbiology, 67:2062-2069 (May 2001)					
	CC						

EXAMINER

DATE CONSIDERED

\*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include a copy of this form with next communication to Applicant.